Supreme Court, U.S.
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IN THE

Supreme Court of the United States

October Term, 1970.

No. 1,001.

NATIONAL SCREEN SERVICE CORPORATION,
Petitioner.

v.

THE POSTER EXCHANGE, INC.,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

PETITION FOR REHEARING.

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT.

PETITION FOR REHEARING.

Petitioner respectfully moves this Court for an order (1) vacating its denial of the petition for a writ of certiorari, entered on February 22, 1971, and (2) granting the petition. With full deference and respect, petitioner states the following ground for this motion:

The denial of certiorari in this case must necessarily be interpreted by the bar as meaning that this Court will not review a decision against a defendant in a private action for damages under the antitrust laws no matter how clearly that decision conflicts with another circuit and no matter how wrong the decision may be.

The existence of a belief that defendants in antitrust litigation cannot obtain relief in this Court, even when they fully satisfy the criteria of this Court's Rule 19, has far-reaching implications. It can serve only to encourage more of the kind of thing that has happened in this litigation, which has been going on for over twenty years and has involved 16 separate suits (listed in the Petition for Certiorari at No. 763, Oct. T. 1970, pp. 8-9) in a shameful spectacle of forum shopping in repeated attempts to find some court which might be hospitable to claims which the Court of Appeals for the Third Circuit firmly rejected.

Now that the Court of Appeals for the Fifth Circuit has disagreed with the Third Circuit, there is no likelihood that there will be any further conflicting decision by another circuit since the three other cases now pending (Petition, p. 22) are all in the Fifth Circuit, and respondent's counsel will undoubtedly choose districts in the Fifth Circuit for all of the new cases he has threatened to bring (Brief in Opposition in No. 763, p. 12).

What has happened here surely subverts the high purpose of antitrust enforcement. Only this Court can put a stop to it.

Respectfully submitted,

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March 18, 1971

CERTIFICATE OF COUNSEL.

As one of counsel for the petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 58(2).

BERNARD G. SEGAL.